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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,565	12/19/2001	Anthony Patrick Mauro II	020145	4964

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Qualcomm Incorporated  
Patents Department  
5775 Morehouse Drive  
San Diego, CA 92121-1714

EXAMINER
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FERGUSON, KEITH

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 07/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/029,565

**Applicant(s)**

MAURO, ANTHONY PATRICK

**Examiner**

Keith T. Ferguson

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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DETAILED ACTION

*Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Komaili et al. in view of Uhlik et al..

Regarding claim 1, Komaili et al. discloses an apparatus for providing configurable functionality to a communication device (wireless transceiver) (fig. 2 number 200), comprising: a memory (fig. 2 number 270) for storing a plurality of software modules (vocoders) (fig. 2 numbers 206, 210 and 210), each of said plurality of software modules for providing a specific functionality (encoding rate) for said communication device (col. 6 lines 5-18); a host processor (processor) (fig. 2 number 214) for receiving a command to set up a communication (col. 6 lines 18-53), said command comprising information relating to the type of communication desired (desire rate) (col. 6 lines 5-45), and for selecting at least one of said plurality of software modules (vocoders) based on the type of communication desired (col. 6 lines 5-45), and for loading said at least one of said plurality of software modules into a digital signal processor (col. 6 lines 5-45); and for executing said at least one of said plurality of software modules to provide said desired communication type (col. 6 lines 33-53). Komaili et al. differs from claim 1 of the present invention in that it does not explicitly disclose said digital signal processor for storing said at least one of said plurality of software modules. Uhlik et al. teaches a wireless subscriber unit with a vocoder stored within a digital signal processor. Therefore, it would have been obvious to one of ordinary skill in the art at

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the time the invention was made to modify Komaili et al. (wireless transceiver) with said digital signal processor for storing said at least one of said plurality of software modules in order for the processor to determine the proper vocoder rate based upon the vocoder rates stored within to maximize the voice quality for transmission, as taught by Uhlik et al..

Regarding claim 2, Komaili et al. discloses a first vocoder, a second vocoder (fig. 2 number 206)

Regarding claim 3, Komaili et al. discloses a first vocoder (fig. 2 number 206) module and a second vocoder module (fig. 2 number 208).

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Han et al. (U.S. Patent 6,002,999) discloses an apparatus comprising a first and second vocoders (fig. 1). Robertson (U.S. Patent 6,463,274) discloses a cellular telephone comprising a multi-rate vocoder (fig. 1 number 104) for selection (fig.1). Ohsuge (U.S. Patent 2002/0028670) discloses a mobile terminal comprising a digital signal processor/voice codec section (fig. 1 number 5).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keith T. Ferguson whose telephone number is (703) 305-4888. The examiner can normally be reached on 6:30am-5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be

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reached on (703) 308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Keith Ferguson  
Art Unit 2683  
June 23, 2004

